UNITED NATIONS

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United Nations Conference on Trade and Development

Distr.
GENERAL

TD/B/COM.2/CLP/28
22 April 2002

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology and
Related Financial Issues
Intergovernmental Group of Experts on Competition Law and Policy
Fourth session
Geneva, 3–5 July 2002

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

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2. Adoption of the agenda and organization of work

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   (ii) Work programme, including technical assistance, advisory and training programmes on competition law and policy

3. Provisional agenda for the fifth session of the Intergovernmental Group of Experts

5. Adoption of the report of the Intergovernmental Group of Experts

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II. ANNOTATIONS

Item 1. Election of officers

1. The Intergovernmental Group of Experts will elect a Chairman and Vice-Chairman-cum-Rapporteur.

Item 2. Adoption of the agenda and organization of work

2. The Group of Experts may wish to adopt the provisional agenda, which is the same as those for previous sessions of the Intergovernmental Group of Experts and which has always been found suitable for the effective discharge of the Group's duties.

Organization of work

3. It is proposed that the first plenary meeting, which will open at 10 a.m. on Wednesday, 3 July 2002, be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on Friday 5 July, will be devoted to the adoption of the report (item 5). [1]

4. This would leave the remaining meetings, from the afternoon of 3 July to the morning of 5 July inclusive, for consultations on competition law and policy, including studies related to the provisions of the Set of Principles and Rules (item 3 (i) of the provisional agenda) and the work programme, including technical assistance, advisory and training programmes on competition law and policy (item 3 (ii)). If more time is needed, the adoption of the report could be postponed to the late afternoon of 5 July, in order for an informal working session to take place that afternoon.

Item 3 (i). Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules.

5. As recommended in paragraph 5 of the agreed conclusions of the Intergovernmental Group of Experts on Competition Law and Policy at its third session,[2] at its fourth session the Intergovernmental Group of Experts will consider the following issues, for better implementation of the Set:

(a) Merger control: the balance between control of concentration and the ability of domestic firms to compete on world markets;
(b) The interface between competition authorities and regulatory bodies.

6. Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 15 May 2002) in order for all participants to be able to prepare themselves for such consultations. Moreover, for each of the issues referred to above, the secretariat would encourage experts from both developed and

developing countries, as well as countries in transition, to make oral presentations supported by short written contributions to be made available during the consultations.

7. Under paragraph 4 of the agreed conclusions of the third session, the Group of Experts requested the secretariat to revise documents TD/B/COM.2/CLP/20,21,22 and 23 in the light of comments made by member States at the third session or to be sent in writing by 31 January 2002 for submission to the next session of the Group of Experts and to make them available through UNCTAD's website. Also, in paragraph 3 of the agreed conclusions, the Group of Experts requested the secretariat to study for the 2002 session of the Group of Experts the possibility of formulating a model competition agreement on competition law and policy, based on the Set of Principles and Rules on Competition. This will be contained in the conclusions of the revised study on "Experiences gained so far on international cooperation on competition policy issues and the mechanisms used" (TD/B/COM.2/CLP/21/Rev.1). Further work on this issue will be taken up at an ad hoc meeting of experts convened by the secretariat to study the main issues to be covered by a possible international competition cooperation agreement. The results of that meeting will be submitted to the Group of Experts in July.

8. Further, as requested above, the revised versions of documents TD/B/COM.2/CLP/22 and TD/B/COM.2/CLP/23, on "Competition policy and the exercise of intellectual property rights" and "Model law: The relationships between a competition authority and regulatory bodies, including sectoral regulators", and the new chapter of the model law will be submitted to the Group of Experts for consideration. An updated review of technical assistance (TD/B/COM.2/CLP/29) will also be submitted under agenda sub-item 3(ii), referred to below.

9. As requested under paragraph 7 of the agreed conclusions, the fourth session of the Intergovernmental Group of Experts will also consider the secretariat's ongoing work on:

(a) A study on the relationship between competition, competitiveness, and development;

(b) A progress report on a study of the roles of possible dispute mediation mechanisms and alternative arrangements, including voluntary peer reviews, in competition law and policies, as well as a preliminary report on ways in which possible international agreements on competition might apply to developing countries, including through preferential or differential treatment, with a view to enabling them to introduce and enforce competition law and policy.

10. Finally, as requested under paragraph 8 of the agreed conclusions, the secretariat continued to publish the following documents on a regular basis and to make them available on the Internet:

(a) Further issues of the Handbook on Competition Legislation containing the laws and commentaries of New Zealand, Thailand and Indonesia (published as document TD/B/COM.2/CLP/25);

(b) An updated version of the Directory of Competition Authorities (published as TD/B/COM.2/CLP/27); and

(c) An information note on recent important competition cases, with special reference to cases involving more than one country, being published separately as document TD/B/COM.2/CLP/26.

11. These three documents, being non-sessional as far as the Intergovernmental Group of Experts is concerned, might not all be available in due time for the session, but will be included in the UNCTAD website like all other documents requested by the Intergovernmental Group of Experts.

Item 3 (ii). Work programme, including technical assistance, advisory and training programmes on competition law and policy

12. Under this item, the Intergovernmental Group of Experts is expected to give guidance to the UNCTAD secretariat as to further work to be undertaken on competition law and policy.

13. In particular, the experts will have before them an updated review of technical assistance (TD/B/COM.2/CLP/29), taking into account the information submitted by States and international organizations, as requested in paragraph 4 of the agreed conclusions. Moreover, it should be noted that in paragraph 24 of the Doha Declaration, the WTO ministers called on "other relevant intergovernmental organizations, including UNCTAD", to provide strengthened and adequately resourced assistance to respond to technical assistance and capacity building needs. Accordingly UNCTAD, in cooperation with the WTO, is actively involved in a series of post-Doha technical cooperation activities aimed at preparing developing countries and countries in transition for possible negotiations on a multilateral competition framework at the WTO. Details of these and other technical assistance activities of UNCTAD are indicated in UNCTAD's competition website: http://www.unctad.org/competition.

14. On the basis of the review of technical cooperation, the experts will be invited to give guidance to the secretariat on how best to assist developing countries in formulating national competition legislation and regional competition rules and in building and strengthening capacities in this field, as well as how best to identify financial and technical resources for the implementation of technical assistance and capacity building programmes.

Item 4. Provisional agenda for the fifth session of the Intergovernmental Group of Experts

15. As is customary, the Intergovernmental Group of Experts is expected to agree on the provisional agenda for its next session.

Item 5. Adoption of the report of the Intergovernmental Group of Experts

16. The Intergovernmental Group of Experts on Competition Law and Policy is required to report to the Commission on Investment, Technology and Related Financial issues

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[1] In view of the short duration of the session, the Rapporteur would be authorized to complete the final report after the close of the session.

[2] See report of the Intergovernmental Group of Experts on Competition Law and Policy on its third session (TD/B/COM.2/32-TD/B/COM.2/CLP/24), chapter I, page 5.